

# Module 1 TITLE TRAINING Introduction

Lands and Realty Title Training  
BLM National Training Center  
Phoenix Arizona





# Module 1 - Course Introduction Title Training



## Welcome

The Bureau of Land Management (BLM) and the Forest Service (FS) Lands and Realty Management Programs secures and protects the American public's value and interests in public lands and national forest and grasslands, and authorizes a variety of uses on those lands to meet the needs of present and future generations.

Knowledge of the **quality of title** to United States property, within the property law context, is critical to exercising our authorities and understanding the consequences of our decisions as managers of National Forest System lands.

This introductory course was developed to aid in the transfer of knowledge and to provide cost-effective training for BLM and Forest Service employees working in lands and realty-related positions, or those who aspire to those positions and want to acquire training in the area.





# Module 1- Course Introduction – Title Training



## Learning Objectives

This course takes about three hours to complete, and consists of three modules. Upon completion of this course, you will be able to:

- **Define common terms associated with property rights and ownership.**
- **Describe various types of land transactions, both voluntary and involuntary.**
- **Explain the importance of various kinds of title evidence.**
- **Describe land title roles and responsibilities within and beyond the BLM & FS.**



## Meet Your Guides, Laura and John



### Course Introduction:

Throughout the course, Laura and John experienced Realty Specialists, will present fundamental terms and concepts as practiced in BLM and FS real estate transactions.





**Module 1 covers the basic terms and concepts of title and property law. Upon completion of this module, you should be able to:**



1. Define **title**, **property** and **real property**.
2. Explain the **bundle of rights** concept.
3. Describe four key **property rights**.
4. Describe three kinds of **estates**.
5. Describe two kinds of **easements**.
6. Explain the purpose of **negative easements** (including **conservation easements**).
7. Give examples of who can legally **own property**.
8. Describe three kinds of **estate ownership**.



## Module 1 – Introduction: What Does Title Mean?



**Title is the evidence of ownership.** Attorneys describe it as a legal concept.

- It is also the means whereby the holder may lawfully assert and protect their possession and use of property.
- In the BLM and the FS, we describe title simply as:
- Legal ownership, and
- The right to use the property

**Title** is the means whereby the holder may lawfully assert and protect the possession and use of the property. Title is the evidence of the right of ownership of the land.



## Module 1: Introduction – Title and Property Defined

### There are two kinds of property:

1. Personal property, which includes belongings that are readily moveable from one place to another; and
2. Real property, which includes the land and whatever is erected or growing on or affixed to the land.

This course covers only real property laws, terms and practices in the BLM & FS.

Rights are a claim to title to, or interest in, anything whatsoever which is enforceable by law.

Property is something to which a person or persons can hold legal title. Property can be tangible or intangible. Tangible property, such as land, fixtures, or fruits of the soil, is physical. Intangible property is not physical, but can still be owned. For example, oil is tangible in that it can be seen; however, the right to drill for the oil is intangible in that it cannot be seen.



## Module 1: Introduction – Title and Property Defined



### Real Property

Here's a simple definition of real property:

*“any property that is attached directly to land, as well as the land itself.”*

Real property is both tangible and intangible. It includes not only buildings and other structures that are attached to the land and not movable, but also rights and [interests](#). Natural resources such as oil, gas and timber also qualify as real property, because they are considered to be part of the land.

Real property is land, and generally whatever is erected or growing upon or affixed to the land. Also, rights issuing out of, annexed to, or exercisable within or about the land.

[Interest](#): A general term to denote a right, claim or legal share in something.





### Knowledge Check

#### Key Terms to Remember

- Real Property
- Rights
- Title

Title is such a broad term. It covers a whole set of legal concepts, all based in real property law, which is derived from English [common law](#). But before we go deeper into title, we need to cover some basics about property ownership.

*Property ownership is like a bundle of sticks.*



[Common law](#): The body of law derived from judicial decisions, rather than from statutes or constitutions

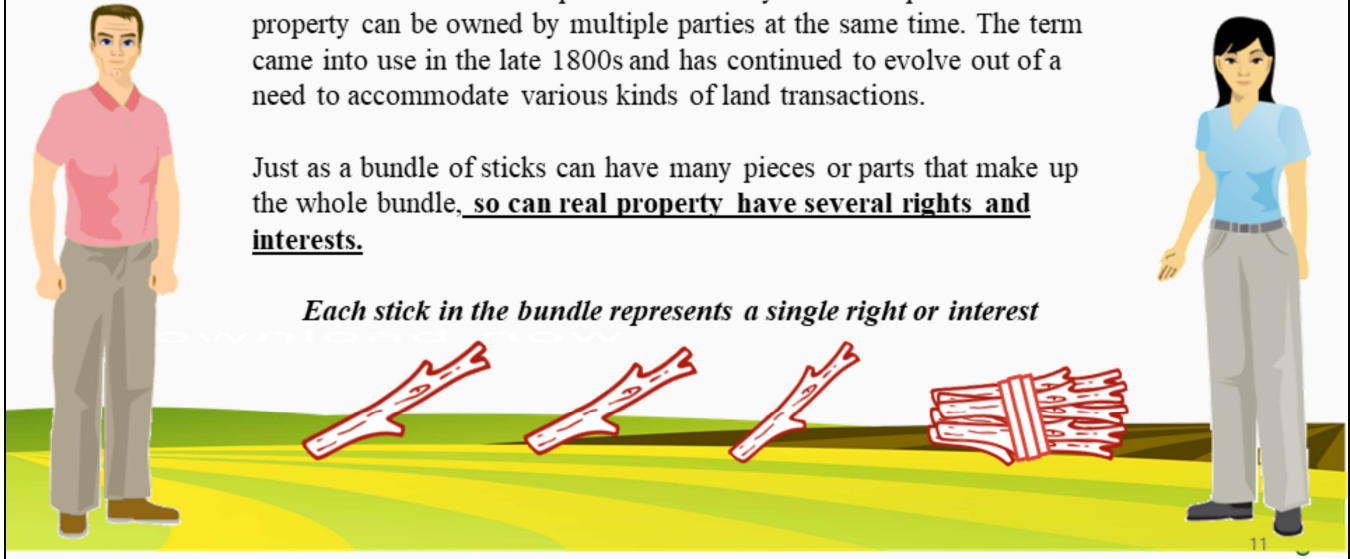
- Common law: The body of law derived from judicial decisions, rather than from statutes or constitutions

### Bundle of Rights:

The bundle of sticks metaphor is commonly used to explain how property can be owned by multiple parties at the same time. The term came into use in the late 1800s and has continued to evolve out of a need to accommodate various kinds of land transactions.

Just as a bundle of sticks can have many pieces or parts that make up the whole bundle, so can real property have several rights and interests.

*Each stick in the bundle represents a single right or interest*





### Fee Title:

The complete bundle of rights comprises the fee title, or entire interest in the property, from the theoretical center of the earth extending through the property at the earth's surface and continuing infinitely upward to the sky. (Since the advent of air travel, however, ownership of air space has become somewhat more confined.)

Fee title: A legal right referring to ownership of real property



- Fee title: A legal right referring to ownership of real property



Title is:

- A legal **concept**

Title is NOT:

- The **deed**
- The **title commitment**

"Title to land" means both:

- The **actual right** to (or ownership of) land
- The **evidence** of ownership of land





### The Bundle of Rights:

Some of the rights in the bundle may be sold, leased or given away; and others retained. More than one person may own or lease various “sticks,” or rights to use the property.

Some common rights are:

- Surface rights
- Mineral estates
- Road or access easements
- Timber rights
- Telephone and electrical line easements, and
- Water Rights

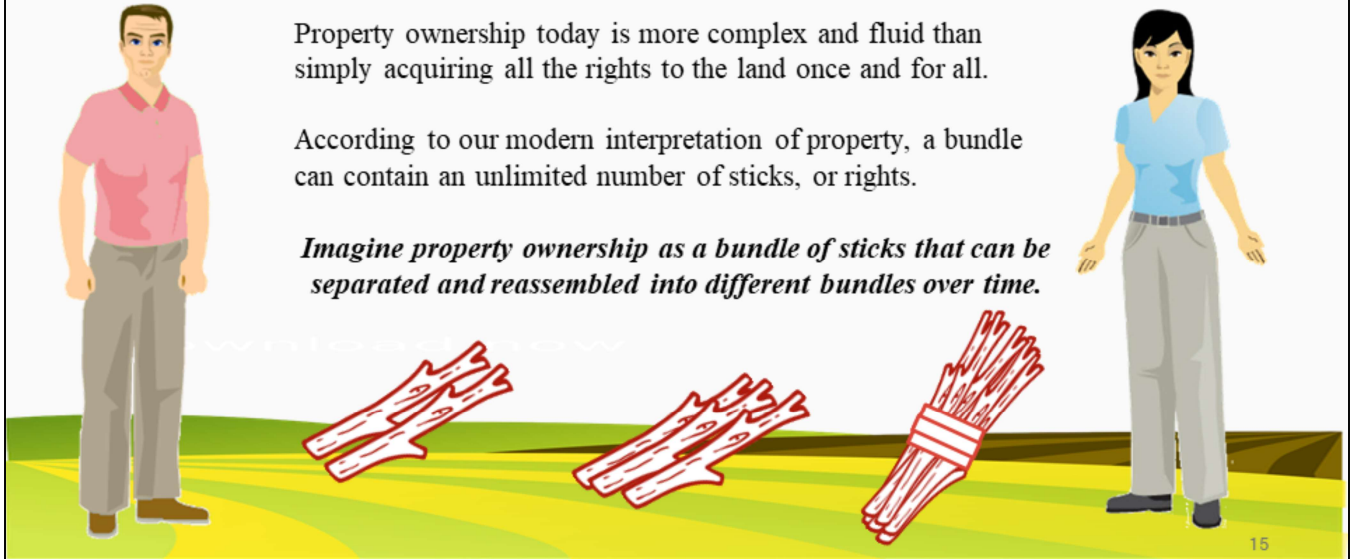


### Breaking up the Bundle of Rights:

Property ownership today is more complex and fluid than simply acquiring all the rights to the land once and for all.

According to our modern interpretation of property, a bundle can contain an unlimited number of sticks, or rights.

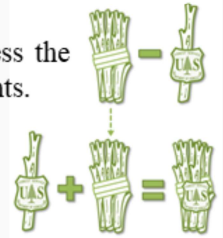
*Imagine property ownership as a bundle of sticks that can be separated and reassembled into different bundles over time.*





### Here's an example of how a bundle of rights can change over time:

1. The Forest Service acquires a road easement across private property, in order to access the National Forest. The property owner grants the United States one of their sticks, or rights.
2. Several years later, the Forest Service purchases the property containing the road easement.



The Forest Service has now merged the one stick, or right, with the entire bundle. The road easement and the land are now reassembled into one bundle of rights. This concept is also referred to as [merger of title](#).

**Merger of Title:** The absorption of one estate into another, a uniting of different interests in a parcel of property into one ownership

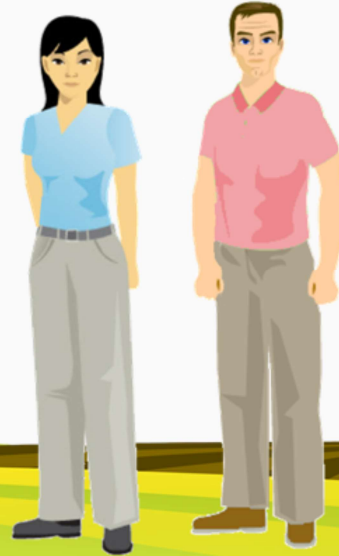
- Merger of Title: The absorption of one estate into another, a uniting of different interests in a parcel of property into one ownership.



### Knowledge Check

#### Key Terms and Concepts to Remember

- Bundle of Rights
- Fee title
- Rights



## Module 1: Introduction – Four Key Property Rights

### 2. Use

Use describes the right of the property owner to utilize their property as they see fit. The owner may use real property in all sorts of ways, such as:

- Build on it
- Keep personal property on it
- Extract minerals from it
- Develop agricultural products through farming or ranching, or
- Hold it for investment.

All property use activities must be conducted within the constraints of the law.



Land use activities

Use: Generally refers to beneficial uses recognized by state





### 3. Private Enjoyment

The [right to private enjoyment](#)....

Property law gives a landowner the right to the full use, and enjoyment of their property, without any substantial interference from others, under reasonable circumstances.

[download now](#)



Right to Private Enjoyment

## Module 1: Introduction – Four Key Property Rights

### 4. Conveyance

A property owner can exclude others from their property. They can also choose *not* to exclude others, by granting, or conveying, the land, an interest in the land, or use of the land. Conveyance refers to the transfer of title (official ownership) to real property or an interest in real property from one person, the grantor to another, the grantee by a written deed or equivalent document.

Conveyance of property rights commonly involves the transfer of rights to:

- Use (as in a road easement)
- Water
- Minerals
- Timber
- Profits
- Limit use of the property (as in a conservation easement)







**Conveyance**: A transfer of legal title to land, water or interest thereon

**Grantor**: A person or entity who conveys property to another. The seller.

**Grantee**: A person or entity to whom property is conveyed. The buyer.

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## Module 1: Introduction – Four Key Property Rights



Here's an example of an interesting property rights issue.

1. The BLM has for some time allowed the leasing of mineral rights to a private company, which is engaged in mineral extraction of public lands.
2. The company wants to expand their operations into a new area of public land. However, part of the land they are interested in using is designated as a wild and scenic river by the **Wild and Scenic Rivers Act**.
  - The BLM **may not** legally allow the mineral rights to be leased within the protected area because that activity is prohibited by law.
  - The BLM **may** choose to allow leasing outside the protected area, if appropriate.

### Knowledge Check

#### Key Property Rights and Terms and Concepts to Remember

- Possession
- Use
- Private Enjoyment
- Conveyance



## Module 1: Introduction - Property Rights and Ownership: Easements

### Easements:

An easement is a limited right or privilege to use another's land for a specified purpose. The most common easements are for: **access roads, utilities, waterways, or other linear uses such as telephone lines, pipelines, power lines or ditches.**

**Easement rights can be inherited or assigned.**

**Easements can be classified in two ways:**

- **Easement appurtenant**
- **Easement in gross.**

An easement is a non-possessory interest in land that is conveyed by the fee owner to another party for a specified purpose.



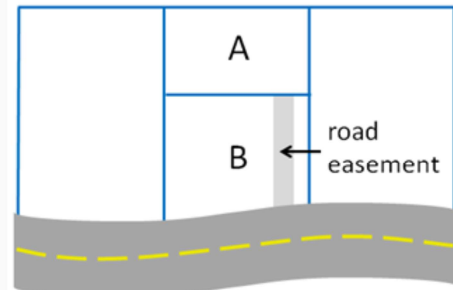
## Module 1: Introduction - Property Rights and Ownership: Easements

### Easement Appurtenant

In property law, appurtenant means “attached to.” An easement appurtenant must be connected, or appurtenant to the parcel of land that is served by the easement.

- The land served by the easement is known as the **dominant estate** (A).
- The land burdened or crossed by the easement is known as the **servient estate** (B).

The owner of the servient estate may continue to use the easement. They may also choose to exclude everyone from the land except the easement holder.



Easement Appurtenant: The access road easement on Property B (the servient estate) benefits the property next to it, Property A (the dominant estate).



## Module 1: Introduction - Property Rights and Ownership: Easements

### Easement in Gross:

Some easements, such as public road and **utility easements**, are not connected to a dominant estate or a particular piece of property. These are referred to as easements in gross.

An easement in gross benefits an individual or legal entity (such as a corporation) but is not “tied to the land.” It is a personal right of its holder to a designated use of another's land that is not dependent on ownership of a dominant estate.

- In the United States, **utility easements** are the most common easements in gross. A utility easement permits a utility company to enter the property to maintain the electricity, natural gas, telephone or cable service, either to the property crossed by the easement or to nearby properties.
- Pipeline easements are another common form of easement in gross. They allow pipeline owners to access buried water and sewage pipes running through the encumbered property.



## Module 1: Introduction - Property Rights and Ownership: Easements

### Easement vs. Right-of-way:

The term right-of-way is sometimes used interchangeably with the word easement. However, easement is the more precise legal term.

Generally, a right-of-way is a form of easement that is limited to the **right of passage** over someone's property. An easement may describe a right-of-way, but it can also be granted for other purposes, such as utility or waterways access.

Furthermore, a right-of-way may be granted through an easement or by other instruments, such as licenses or permits.

**Rights-of-way** are granted by an easement, permit or license.



**Right-of-way:** A privilege to pass over the land of another for a road, trail, utility line, pipeline, irrigation canal or ditch, or other linear use.



## Module 1: Introduction - Property Rights and Ownership: Easements

### Easement vs. Right-of-way, Continued

Courts have distinguished between an easement, referring to a right-of-way for a road or trail, which would be considered a property right; versus a right-of-way, which is simply access across property and not a property right.

If issued by license or permit, the right-of-way would terminate once the land is transferred to a new owner. If issued in the form of an easement, a right-of-way would generally run with the land.

Run with the land: When working with rights-of-way, it is always a good idea to review the original documentation, to ensure that the interest conveyed is clear. Not all rights-of-way are property rights.



Backpacker on a trail **right-of-way**





## Module 1: Introduction - Property Rights and Ownership: Negative Easements

### Negative Easements:

Most easements are affirmative, which means that they authorize use of another's land in some way. A [negative easement](#) is an agreement ***not to*** do something with a piece of property.

Negative easements are less common than other types of estates. Modern negative easement law has focused primarily on conservation and preservation.

[Negative easement](#): An easement that restricts land to specific uses, such as limiting development, timber harvesting, or livestock grazing.

Our next slide talks about conservation and scenic easements.



## Module 1: Introduction - Property Rights and Ownership: Negative Easements

### Conservation and Scenic Easements:

A conservation easement (sometimes called a *scenic easement*) is an interest in land that constrains the exercise of rights otherwise held by a landowner in order to achieve specific conservation purposes, such as:

- Maintain and improve **water** quality;
- Perpetuate and foster the growth of healthy **forests**;
- Maintain and improve **wildlife** habitat and migration corridors;
- Protect scenic **vistas**; and/or
- Provide for sustainable **agriculture** and forestry.

Conservation easement: A partial interest in private land conveyed by a landowner to a qualified entity for the purpose of restricting certain development activities and protecting identified resources and open space values.



Conservation easement signs



### More About Conservation and Scenic Easements:

A conservation easement strives to achieve specific conservation objectives while keeping the land in the **ownership and control of the landowner**. The terms of conservation easements vary, but typically prohibit or constrain real estate development (such as subdivisions or hotels). In addition:

- Conservation easements can be **perpetual**.
- They can potentially **reduce the value** of the property.
- The landowner may be entitled to receive significant state and federal **tax advantages** for having donated or sold the conservation easement.



## Module 1: Introduction – Knowledge Check

### Knowledge Check

#### Key Estate Terms and Concepts to Remember

- Fee Simple
- Easement
- Negative Easement
- Estate




## Module 1: Introduction - Property Rights and Ownership: Who Can Hold Estates?

### Examples: Grantor Exceptions

There are many specific limitations to the five broad categories of who can hold and convey title. For example:

- An individual may hold title at any age but may only convey property once they have reached the age of majority.
- An incompetent person may hold title to property but may not convey their property.
- A corporation or partnership may hold title to property so long as they have registered and are in good standing with the state where the property is located.
- Title to real property cannot be acquired by a business that is operating under an assumed business name.

 If you are unsure whether the landowner you are dealing with can legally hold and convey title, talk to your State or Regional Office Lands staff.



## Module 1: Introduction - Property Rights and Ownership: Who Can Hold Estates?

### Definitions:

- **Incompetent person**: An individual who is unable to understand the nature, extent and disposition of their property and the meaning of the instrument they are executing.
- **Age of Majority**: The age at which an individual becomes a legal adult and assumes control over their persons, actions and decisions, thus terminating the legal control and legal responsibilities of their parents or legal guardian over and for them. Check your state statutes to determine the age of majority in your state.
- **Assumed Business Name**: A name under which a corporation conducts business that is not the legal name of the corporation as shown on its Articles of Incorporation. Assumed business names do not create legal entities in and of themselves.



### Knowledge Check

Let's review estate ownership

You should have a general knowledge of who may legally **hold and convey title**.



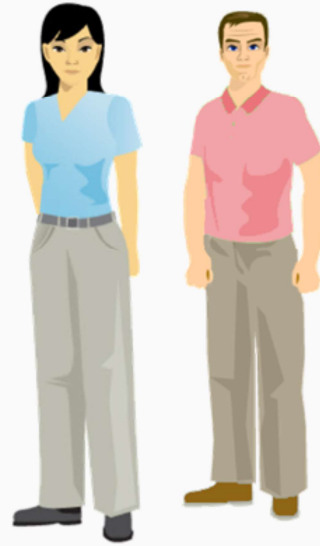
## Module 1: Introduction - Property Rights and Ownership: Forms of Ownership

Estates in land can be held by a single owner or multiple owners. **Single ownership** can involve one person, corporation or business entity.

Ownership by **multiple parties** usually takes one of the following three forms:

- **Joint Tenancy**
- **Tenancy by the Entirety**
- **Tenancy in Common**

Read on to learn about each form of ownership.





## Module 1: Introduction - Property Rights and Ownership: Forms of Ownership

### Forms of Estate Ownership:

**Joint tenancy** involves an undivided interest in land held by two or more persons, where the interest of one joint tenant **automatically passes at death** to the other joint tenant or tenants.

In order to create a joint tenancy there must be **unities of time, title, interest, and possession**. This means that title must be given at the same time with the same deed or instrument, that each owner must receive the same proportionate and equal share of ownership, and that each owner must have the right to enjoy the premises in its entirety.

A joint tenant may **convey** their interest to another person without the agreement of the other joint tenant or tenants. However, this breaks the joint tenancy and the new owner and other joint tenant or tenants become co-tenants.

Undivided interest: Fractional ownership without physical division into shares



### Tenancy by the Entirety:

Tenancy by the entirety is a unique type of **joint tenancy** that exists solely between a **married couple**. If one spouse dies, the surviving spouse is entitled to all of the real property.

A tenancy by the entirety can only be terminated by mutual agreement of both spouses, by divorce decree, or by the death of either spouse.



### Tenancy in Common:

Tenancy in common refers to an **undivided fractional interest** (shares) held by multiple owners. For example, eight people each hold an undivided  $1/8$  interest in the property.

Tenants in common may acquire their interests at different times under different conveyances from different persons and may convey their interest at any time without affecting the tenancy in common.

In this type of ownership, the interest of one owner does not pass automatically to the other owners at time of death. Unlike joint tenancy, tenants in common are free to dispose of their share after death in any way they choose.



### Knowledge Check

#### Key Estate Ownership Terms and Concepts to Remember

##### **Key Terms**

- Joint tenancy
- Tenancy by the entirety
- Tenancy in common



# Module 1: Introduction - Summary

## Module 1 Introduction Summary:

Module 1 addressed what you need to know about property rights and estate ownership. Following is a summary of Module 1:



- Examples of [title](#), [property](#) and [real property](#)
- The [bundle of rights](#) concept
- Four key [property rights](#) are own, use, exclude, and convey
- Three kinds of [estates](#) are fee simple, easement, and negative easement
- Two kinds of [easements](#) are appurtenant and in gross
- The purpose of [negative easements](#), including conservation easements
- Examples of who can [legally own](#) property
- Three kinds of [estate ownership](#) are joint tenancy, tenancy by the entirety, and tenancy in common.

Good job! *Next* is **Module 2**, which covers more about estates, as well as various types of land transactions.

